

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Wednesday 22 September 2004

Session 2

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ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

21st Meeting 2004, Session 2

CONVENER

*Sarah Boyack (Edinburgh Central) (Lab)

DEPUTY CONVENER

*Mr Mark Ruskell (Mid Scotland and Fife) (Green)

COMMITTEE MEMBERS

Roseanna Cunningham (Perth) (SNP)

*Rob Gibson (Highlands and Islands) (SNP)

*Karen Gillon (Clydesdale) (Lab)

*Alex Johnstone (North East Scotland) (Con)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Mr Alasdair Morrison (Western Isles) (Lab)

*Nora Radcliffe (Gordon) (LD)

COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)

Janis Hughes (Glasgow Rutherglen) (Lab)

Jim Mather (Highlands and Islands) (SNP)

Jeremy Purvis (Tweddale, Ettrick and Lauderdale) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Councillor Alison Hay (Convention of Scottish Local Authorities)

Councillor Alan Kenney (Convention of Scottish Local Authorities)

Jim Lugton (Scottish Council for Voluntary Organisations)

Trisha McAuley (Scottish Consumer Council)

Len Scoullar (North West Water Customer Consultation Panel)

Ian Smith (Water Customer Consultation Panels)

James Thomson (Convention of Scottish Local Authorities)

CLERK TO THE COMMITTEE

Tracey Haw e

SENIOR ASSISTANT CLERK

Mark Brough

ASSISTANT CLERK

Chris Berry

Catherine Johnstone

LOCATION

Committee Room 4

Scottish Parliament

Environment and Rural Development Committee

Wednesday 22 September 2004

[THE CONVENER *opened the meeting at 10:34*]

Water Services etc (Scotland) Bill: Stage 1

The Convener (Sarah Boyack): I welcome people to the 21st meeting in 2004 of the Environment and Rural Development Committee.

Item 1 is our third evidence-taking session on the Water Services etc (Scotland) Bill. We have tried to get a representative selection of witnesses. We will today consider customer and consumer interests and we will also look at local authority interests.

I ask members to declare any relevant interests before we kick-off.

Maureen Macmillan (Highlands and Islands) (Lab): I am one of the directors of Ross-shire Women's Aid, which is a charitable organisation that obviously has an interest in water charges.

The Convener: Thank you. We will put that on the record.

I welcome the first panel of witnesses. We have with us Jim Lugton, the policy officer of the Scottish Council for Voluntary Organisations, and Trisha McAuley, the head of corporate resources at the Scottish Consumer Council. I welcome you and thank you for giving us your written evidence in advance. As with previous evidence sessions, we will not ask you to repeat your evidence verbally, but we want to follow up your written submissions with questions from committee members.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): My question is primarily directed at Trisha McAuley. Your submission describes the split between the Executive, which has a policy formation role, and the water commission, which has a role in implementing that policy. Your submission mentions the three elements of sustainability: economics, the social justice angle and the environment. You also say that the water commission, as well as Scottish Water, should have a statutory duty for sustainability. Why do you think that that is necessary? Should that duty be in the bill or could it be elsewhere?

Trisha McAuley (Scottish Consumer Council): We would like it to be in the bill. We have discussed the matter with Executive officials in the context of the current consultation on paying for water. We cannot have a charging system that does not look at our sustainable use of water in the future. We would like the water commission to have a similar duty to that placed on Scottish Water.

That does not mean that we would like to blur the responsibilities: there should be a clear separation between the minister's policy obligation and the commission's obligations. The minister should still always have his eye on sustainability in relation to water; he or she should set the policy objectives. The commission should not develop its own policy, but it will take decisions, on charging for example, which will have an effect on sustainability in the widest sense. For example, if we carry on with the same system of paying for water, we will not really tackle sustainability. We might decide to go down a different road in the future. The commission might say, "Let us have sustainable use of water and introduce metering." We would say, "Fine. That meets the environmental element of sustainability," but the water commission would need to be careful that the social justice element was also met, because it would have to ensure that, on usage, people did not self-disconnect.

We are saying that we would like the water commission to be mindful of its decisions at operational level. We certainly would not want to confuse that with the policy direction from ministers, but the commission has to be mindful of the impact of the decisions that it makes.

Mr Ruskell: In the past couple of weeks of evidence taking, we have talked about a number of sustainability indicators. For example, we have talked about leakage rates from the water network. Your submission mentions a water poverty indicator based on household income, which Citizens Advice Scotland also mentions. Jim Lugton's submission mentions the proportion of charities that are exempt from water charging. Those could all be sustainability indicators of one type or another. Who should be concerned with monitoring those sustainability indicators and reporting back to the minister? Should it be the water commission, Scottish Water directly, the utility companies or what?

Trisha McAuley: I have not given that an awful lot of thought. I think that the minister should set the policy direction. The commission's role, as I see it, relates to the setting of charges rather than sustainability targets. Scottish Water has a relevant duty as well. I would not like to go down the route of blurring the responsibilities of the commission and of ministers.

Mr Ruskell: My question is, who monitors the implementation of the policy that the minister has set? Who provides the minister with indicators relating to whether the policy is being enacted?

Trisha McAuley: That would have to be the role of the commission. The commission has to report back to ministers on how it delivers on the objectives that have been set.

Jim Lugton (Scottish Council for Voluntary Organisations): An important dimension relates to whether we continue to consider conservation on the supply side or start to address it on the demand side. From the voluntary sector perspective, we are ready to become involved in a major campaign on water conservation because we feel that that is every bit as important as the concerns that have dominated the debate so far.

Trisha McAuley: I echo that. We have a long way to go but we are not doing anything to examine the supply and demand issues. At the moment, there is unharnessed consumption and we are continually investing millions of pounds. It is true that we are meeting our directives but, 10 or 20 years in the future, there might come a point at which we are investing simply to meet unharnessed consumption. We are at the beginning of a long process and there might be some scope for starting to examine the issues more broadly.

Rob Gibson (Highlands and Islands) (SNP): The Scottish Council for Voluntary Organisations submission discusses the issue of public benefit and whether Scottish Water is truly a public corporation. The bill will require ministers to set out the principle on which water charges will be based in order to harmonise them. You would like low-income households, small businesses and charities to be treated in a similar way. Will you expand on how the bill might achieve some of those aims?

Jim Lugton: There are already special concessions for a large number of people who have medical and other needs. Further, it is recognised that key public operations such as hospitals have special needs. We need to broaden the scope of the public benefit dimension of Scottish Water's operations. I can quite understand that, for Scottish Water's management, that translates into a worry about who pays. However, the question for ministers is, if Scottish Water is to be a public corporation, how do we deliver the public benefit and who do we deliver it to and what for? We believe that, particularly given what is contained in the draft Charities and Trustee Investment (Scotland) Bill, there is scope for the two policy arms to be brought together. We should recognise that we have a good opportunity to set out what public

benefit is and how it can be delivered to groups that have difficulties affording services.

I am not saying that there should be a *carte blanche*. Prior to 1996, considerable exemptions were granted by local authorities, particularly the regional and islands councils, which controlled water supply. A large number of charities and individuals in particular circumstances were granted concessions. The SCVO is arguing for a reversion to the status quo that existed before 1996.

Since the extensions that were made as a result of decisions that you made as a minister in 1999 and 2000, convener, we have seen a gradual recognition of the strength and integrity of the simple and straightforward case that we have put. We feel that this is the right time to make decisions that will be sustainable in the longer term and certainly beyond 2010.

Rob Gibson: Does the Scottish Consumer Council have a view on the issue?

10:45

Trisha McAuley: To follow on from what we said in our written submission, there is a body of opinion that says that water is a public good that should be fully funded through taxation. However, I do not think that it is realistic to go down that road at the moment. Scottish Water operates under a public sector business model and is asked to deliver along business lines. There does not seem to be enough clarity on the relationship between the charging system, as it is referred to, and the public benefit and value that we need to get from our water—we would like more clarity on that. If we are to continue with the current model—Scottish Water being in the public sector but asked to deliver according to a business model—the public good should be addressed by citizens and taxpayers rather than by consumers. In particular, people who are on low incomes and who cannot afford to pay for their water are not getting benefits—that is a cross-border issue that has not been addressed at the UK level since devolution.

Rob Gibson: Are you saying that the minister has to make things clear so that the water industry commissioner and Scottish Water start to deliver? Do you think that the minister has to have discussions with London?

Trisha McAuley: Yes. Social policy issues should be taken out of the charging system because there are too many cross-subsidies and the situation is becoming a mess.

Alex Johnstone (North East Scotland) (Con): That is the matter that I want to address. The principle of cross-subsidy in charging is enshrined in what we are discussing. We heard that the

SCVO wants exemptions to be extended, but that necessarily means that others will pay more. We heard sound arguments for the protection of business customers, on which provisions are contained in the bill along with provisions on retail competition. Is not there a danger that we will isolate a relatively small group, who will, in effect, pay tax through the water system to subsidise the social policy elements that we are trying to address?

Jim Lugton: That would be the case if we had not been there before. It is interesting that until the Local Government etc (Scotland) Act 1994, Mr Johnstone's party accepted that cross-subsidy is essential to meet the needs of those who, for various reasons, such as health or public benefit activities, need help with their water supplies. The question is whether that public and private benefit on the basis of need should be resumed. We are not starting from scratch with the principle of cross-subsidy. We suggest that there were strong and rational intellectual arguments for such exemptions and that those arguments still apply. Indeed, some of them may apply even more because of the problems that have developed with family structures during the past 30 years. For example, single parents find it difficult to meet water bills individually. Certain charities also face difficulties. I draw to the committee's attention the example of Coldingham village hall. The local community is working hard to raise £150,000 for major improvements to the hall, which has an income of just over £1,100 per year, but the annual water charge for the hall is £800. Such facilities are in the heart of communities and they deliver benefits to everyone, but they will be difficult to sustain if we do not operate a system of cross-subsidy that supports certain charitable activities.

Alex Johnstone: I accept the priorities that you set out, but the situation that I described is one in which the burdens of cross-subsidy become large: because protection is afforded to certain groups of water users, a shrinking group becomes the target of water charges and, in effect, the taxpayers who subsidise everything that we choose to subsidise.

Do you believe that the system of cross-subsidy that affords the benefits that you have described is sustainable in the changing marketplace that the bill seeks to foster?

Jim Lugton: To an extent, I agree with Trisha McAuley on this issue. It would be fairer to take the cross-subsidy element out of the charging system, because it is an equalisation payment made by the Executive. In fact, doing that would also make things administratively far more straightforward. As we know the level of subsidy and who receives it, it would be a simple matter to totalise it over the year and pay it in an

equalisation cheque to Scottish Water. However, although the method is simple, we have to bear in mind the principle behind it. For example, even in 1995-96, which was the last year of the previous arrangements, the cross-subsidy total for all the local authorities amounted to less than 1.8 per cent of water charges.

Alex Johnstone: In that case, do you agree that it might be preferable to have a system in which everyone who uses water pays their share of the total cost of water service provision and those whom society as a whole has decided through its representative bodies to make exempt should be exempted through a system that does not target the charges on an ever-shrinking group of people who can afford to pay?

Jim Lugton: That is based on the assumption that the group is ever-shrinking. The statistical evidence suggests that the vast majority of people are still charge payers and that cross-subsidy currently benefits a very small proportion of them.

The Convener: The SCC submission suggests a way of calculating affordability. Many notional affordability indicators in the energy market relate to fuel poverty. The submission says:

"DEFRA has set 3% of household expenditure as a measure of affordability of water as part of its sustainable development indicators ... We need a similar indicator in Scotland".

Do you know how many households in Scotland that would affect?

Trisha McAuley: No. I just used that figure as an example. Our submission goes on to say that we would need to base our measure of affordability on evidence; however, there is a paucity of evidence on how water charges affect people in Scotland. Although the Executive is undertaking some research on cross-subsidy, far more work needs to be carried out on how the issue affects vulnerable groups and people in our society. We do not have any evidence that would allow us even to start drawing up an affordability indicator. We are well behind England and Wales in that respect.

Jim Lugton: At a more generic level, we might presume that because the age balance in the Scottish population tips towards older age groups, a larger proportion of households are probably being affected. However, Trisha McAuley is quite right. The water industry commissioner has been seriously constrained in the extent to which he can carry out research in this field—which, after all, requires some fairly rigorous research. The 3 per cent figure is the working assumption that the English water companies use and is the best benchmark that we have had to date in the debate in Scotland. That said, I must stress that it is only a working assumption.

Maureen Macmillan: I have some more questions about the charitable exemptions scheme. When it was introduced, we had to impose limits on who would qualify for exemptions, otherwise quite inappropriate charitable bodies would have been subsidised. As I remember, the negotiations on that issue were long and hard.

Although you say that about six hurdles prevent voluntary organisations and charities from accessing relief, you only really talk about the situation that arises when organisations have to move premises or when new premises are built. I wonder whether you could say a little more about the income ceiling. Is the £50,000 ceiling too low? Do organisations know about their ability to access relief? What is happening in that respect?

Jim Lugton: Let me deal with that last point first. Organisations do not know about the exemption scheme because Scottish Water has never made an individualised offer to charities to sign up to the scheme. At the start of the negotiations, we offered our database as a means of hitting most charities with information about the scheme, but that offer was declined by the Executive.

We feel that the £50,000 ceiling is useful and that the level has proved to be about right for the charities that have applied for the scheme. As we say in our submission, we are reasonably happy that the £50,000 ceiling should stay.

However, an utterly perverse effect of the way in which the scheme works is that it penalises charities that move premises to provide a better service for their clients or a better operating environment for their workers. For example, if a women's aid group moves to more secure premises so that it can operate a refuge in a more defensible location, it is penalised because it loses the benefit of the water charge relief that it previously enjoyed. We think that that was not the Executive's intention during our discussions two years ago.

Another aspect is the sheer complexity of the date arrangements, which I will summarise briefly. To benefit under the exemption scheme, the charity must have been in the premises both on 31 March 1996 and on 31 March 1999. Many charities can satisfy one criterion but not the other. A large number of charities have fallen at that hurdle.

As each of the scheme's conditions stands on its own, a charity must satisfy all the conditions before it can qualify. On the basis of the £50,000 ceiling, which we understood to be the basis of our agreement with the Executive, the scheme has worked. However, the imposition of the other conditions needs serious examination.

We ask that Ross Finnie considers revising the statement that he made in response to Richard Lochhead's parliamentary question on 15 June in the light of his announcement at the water services conference on 31 August.

Maureen Macmillan: We will put that point to the minister when we take evidence from him.

The exemption scheme will operate only for another four years, after which time charities will be charged according to actual usage. How do you feel about that?

Jim Lugton: There are two issues. First, in the intervening four years, the vast majority of charities will not and cannot now benefit from the exemption scheme. They have lost the possibility of applying for exemption. If the conditions stick, such charities will remain unable to apply to join the scheme.

Secondly, we could genuinely engage with the committee and with Scottish Water to help to reduce water demand. Given that we work through organisations that range from youth groups to environment bodies and others, we could help to bring about a change of culture in water demand in Scotland, whereby water is not treated as a free good but is valued as a resource that can be used for a variety of purposes. We could help to deliver some of those key objectives to reduce the need for investment and to make the industry more sustainable.

Maureen Macmillan: Finally, your answer to Alex Johnstone suggested that cross-subsidy was the best way of supporting voluntary organisations, but what do you think about providing support out of general taxation? Some argue that the extra water charges for, say, health charities should be funded by the Health Department rather than by cross-subsidy from other Scottish Water customers.

Jim Lugton: As you will know from your strenuous activity on behalf of Highland Hospice, the specific exemption for hospices, which we welcomed strongly at the time, was an example of a departmentally-led concession. We believe that, in the longer term, it would be better to provide such concessions out of general taxation. In the debate at the conference on 31 August, many people, including Trisha McAuley, were surprised at the degree of unanimity among speakers on the need for a contribution from general taxation if we are to avoid the sorts of problems with cross-subsidy that the committee has raised.

11:00

Nora Radcliffe (Gordon) (LD): You have just answered the question that I was going to ask. It was about general taxation being the appropriate

method of supporting people who require help with water charges, rather than having other charge payers picking them up.

There is one more tiny thing that I want to raise: when you offered your database to the Scottish Executive for it to disseminate information about the exemption scheme, is that a database that you used to disseminate information yourselves, or was that too expensive?

Jim Lugton: We did not have the money to be able to do that. We used *Third Force News*, and we used *Third Force eNews*—or *TFE*—which we continue to link with. We also used our links with councils for voluntary service, through *ECVS*, which is a new weekly publication. We continue to try to maintain contact with people. We have now dealt with getting on for 3,800 individual inquiries.

Nora Radcliffe: Is there any indication of a willingness on the part of the Executive to discuss with you the exemption scheme and the difficulties that have been thrown up by its operation?

Jim Lugton: At the moment, we have to rest on what the minister said on 31 August and his reply to a PQ on 15 June. There seems to be a considerable gap between those two statements.

Nora Radcliffe: Presumably, you have a request in for some sort of discussion with the Executive.

Jim Lugton: That is correct.

The Convener: If no one else wishes to fire in any more questions, I thank both the witnesses for coming in this morning and for answering what was quite a range of questions. It has been very helpful to us, and we will be following up one or two of those questions with the minister when we speak to him in a couple of weeks' time.

We will have a pause of a couple of minutes. We will let the first two witnesses go—but you can stay in the public gallery, if you like—and we will let our next panel come to the table.

11:01

Meeting suspended.

11:04

On resuming—

The Convener: We now have our second panel of witnesses in front of us. I welcome Ian Smith, convener of the water customer consultation panels, and Len Scoullar, a member of the north west water customer consultation panel. Thank you both for joining us and for your written evidence. As with the other witnesses, we will go straight to questions. I invite someone to kick off on the interests of customers and how those could be reflected in the new system.

Nora Radcliffe: Could you expand a bit on how you wish the powers of the water customer consultation panels to be strengthened and their role and remit more clearly defined? I note that you are strongly of the opinion that the panels should not form part of the proposed water industry commission for Scotland, which should be an expert economic regulatory body.

Ian Smith (Water Customer Consultation Panels): The best way of answering that is to say that our experience of the present system over the past 18 months has led us to that conclusion. The water industry commissioner has a responsibility to promote the interests of customers, and we have a responsibility to represent them. Sometimes it is quite difficult to place a dividing line between the two.

We think that it would be beneficial for customers and for the industry as a whole to produce a situation in which expert opinion was brought to the economic regulation of the industry and we were given a clear remit to represent more widely the interests of customers. As for the detail of that, we believe that our current consultation role has been pretty effective. We think that we have brought some useful things to the table.

For the future, however, there are areas that require further exploration. I am not terribly satisfied with the way in which a disaffected customer can make a complaint. Currently, customers can complain first to Scottish Water and then to the water industry commissioner, who then reverts to Scottish Water for a resolution. I would prefer for something to be built in whereby an independent body would scrutinise any failure in service and would perhaps have the power to make a recommendation. That might be quite a big step, but it needs to be considered. That function should be kept fairly separate from the consultative function, so that there is not great confusion and so that panel members are not burdened by having to deal with too many complaints themselves.

I would like the committee to consider exploring the customer experience in a wider sense. We have a responsibility under the Water Industry (Scotland) Act 2002 to be consultees on the consultation code. The 2002 act was silent, however, on who would monitor the consultation code and we volunteered to assist Scottish Water in auditing its effectiveness on the code.

As we start to get into the detail of that job, water customer consultation panels could be in a good position to explore the whole of the customer experience. That means not doing the detailed stuff, but bringing in information from all quarters and reporting on it. One of the discussions that I had with Scottish Executive officials led me to the view that perhaps we should find a way of

assisting not only Scottish Water; we should be able to examine the whole of the water industry. We should look at the work of Scottish Water and of any of the regulators, including the Scottish Environment Protection Agency and the water industry commission, and we should be able to make recommendations to all those bodies and to ministers.

We should have the opportunity to report what we do on an annual basis, so that the Environment and Rural Development Committee could, in the course of its deliberations, get a reflection of what the customer perception has been of the water industry, not just of Scottish Water. Does that answer your question?

Nora Radcliffe: It does, and it throws up another one. If your remit were to be widened, would you be concerning yourselves with private water supplies, which are not the province of Scottish Water but which affect a great many people, particularly in my part of the world?

Ian Smith: I understand the situation in your part of the world, where there are a significant number of private water supplies. That has bothered panels over the past year. We have been dealing mainly with current customers of Scottish Water, but there are other people who would like to be customers of Scottish Water, who are not in the same position.

It seems to me that Executive policies need to be better aligned so that the housing improvement grant policy, in so far as it concerns improving water supplies, and the mains distribution policy, would be a bit closer together. I have not thought about how to do that in practice, but I suppose that by default we have been making representations on behalf of people who are not yet customers. I do not think that there is any harm in that. We have certainly exercised our minds about the moneys that have been made available in Q and S II for first-time connections and we have expressed concerns about how identifiable those moneys are and how they fit with other investment patterns.

Rob Gibson: We discussed the public benefit from the process and I have interacted with non-domestic water rates payers in the Highlands who feel particularly hard done by. Should we probe the possibility of including new ministerial powers in the bill that might help such people? There would have to be consultation on such powers before they could be included in the bill. Can you suggest specific solutions to the problem?

Ian Smith: We start with a difficulty in that we try to represent the interests of all customers. It has become clear to us that the interests of the disadvantaged domestic customer can be markedly different from those of large, high-

volume industries. The only answer that I can give is similar to the one that other witnesses have given: it is problematic to have the whole body of customers paying for support to other customers. The present system is far too complicated for people to understand and should be simplified.

I am ducking the question about business interests, but we believe strongly that resolving the problem of support to different customer groups would require, first, thorough consideration of what is paid for by customers and what is paid for by general taxation—I echo what others have said. Secondly, the solution for the domestic customer who is on a low or fixed income lies not in a rearrangement of payments by customers, but in a root-and-branch review of the social security system.

Rob Gibson: I hoped that you might take that line, which seems to be becoming a theme.

Mr Ruskell: The Scottish Consumer Council suggested that the water customer consultation panels and the proposed water industry commission should be required by statute to establish a memorandum of understanding. Would that be the best way of establishing the relationship between the panels and the commission, or would the measures in the bill be appropriate?

Ian Smith: We came along very much as Johnnys-come-lately, long after the establishment of the water industry commissioner and Scottish Water. We have established a working relationship with the WIC: we not only discuss policy with him but we use his resources, because that is how things were set up. We had to grow into that role, which took a bit of time—sometimes a little longer than might have been ideal.

I understand that there are statutory memoranda of understanding in relation to other regulated industries in the UK, as Trisha McAuley said. The memorandum of understanding that we have with the WIC works reasonably well, although it has taken time to get it to work smoothly.

Other aspects of our role need to be clarified. The bill would require the Executive to consult Scottish Water and the proposed commission on various matters, but there would be no requirement for the Executive to consult anyone else. The committee should take the opportunity to consider the bill carefully and perhaps to include a requirement to consult publicly by involving the water customer consultation panels.

Mr Ruskell: That is useful. Do you anticipate that issues will arise as a result of the replacement of the WIC with a board?

Ian Smith: Not at all. The corporate dimension of the proposed water industry commission's

activity would be enhanced by the fact that there would be a board rather than a single regulator. A lot of effective work by competent and committed people in the Scottish water industry goes unnoticed and the proposed corporate structure would enhance that.

11:15

The Convener: That is useful. I have a follow-up question to Nora Radcliffe's first question about complaints. I want to tease out that issue, which has been raised by quite a few witnesses.

There are different types of complaints: complaints about whether somebody has been given the right banding or costing—whether their bill is the right kind of bill—and complaints about the quality of the service that they have received from Scottish Water. In the energy industry, there is a different set-up, which is relatively straightforward. If someone complains to the company but does not get satisfaction, they can complain to energywatch. You said that, if someone complained to Scottish Water but was unsatisfied, they could complain to the water industry commissioner and then get referred back to the company. Am I right in thinking that the water industry commissioner does not require the company to do anything as a result of its investigations?

Ian Smith: My understanding of the process is that—as with all customer complaints across various industries—the first line of complaint is to the organisation that gave rise to the service failure. The present law provides that someone can then go to the water industry commissioner. In practice, that means that the commissioner then goes to Scottish Water and checks to see whether it did things properly.

That is not the customer expectation of complaint resolution. The Department of Trade and Industry, which is consulting on the provision of better consumer representation, is asking whether in the future there should be a separation between customer representation in the utilities on a UK basis and customer complaints. In an ideal world, Scottish Water would be resourced in a way that would enable it to take complaints seriously and resolve them, so that only a small number of complaints would require further consideration.

In the Scottish setting, it would need to be examined whether there is some kind of endemic failure in the organisation that we would want to look at. That would be more for the ombudsman than for a customer organisation. However, I do not think that we are there yet. Customer confidence needs to be addressed. In the present circumstances, that confidence could be achieved only by separating customer complaints from the

commission's economic regulation function. There is an opportunity for Scottish ministers to introduce a different approach to resolving complaints in the water industry.

However, I would not want the water customer consultation panels to become bogged down in complaints. As I said, the consultative function that we have had has been useful. There is something extra that we can do in examining the customer experience. We should perhaps be resourced to take forward an examination of individual customer complaints, in terms of both billing and customer service, to provide an assurance to the customer that their problem has been examined thoroughly and independently.

The Convener: That is often what people want. If there has been a problem, you will not be able to magic it away. What is important is how the organisation deals with that problem in the context of subsequent issues that other people might raise.

I was struck by your comments about customer confidence. The proposals in the other consultation documents about principles for charging could involve different charges being set for many people. Questions have been asked about charges for charitable and voluntary organisations. When anyone's charge is changed, there is uncertainty and unhappiness—unless the charge goes down, which is unlikely.

I want to get to the bottom of this. If someone is unhappy, who do they complain to? Perhaps that is just the way things are—they are going to be on a new charge and, however unfair they feel that it is, the same rough justice is being applied to lots of people. There is then the issue of how they are treated as a customer if there is a fault and the supply does not come through to them. They go to Scottish Water first. If they do not get satisfaction, where do they go next? Perhaps we need to tease that out with the minister. You have suggested a different way of resolving those issues from the ways that are included in the bill. That is an interesting matter to explore further.

Ian Smith: Can I add a little about our experience? We were established at the time that the bills went out last year, when your and ministers' postbags were full of representations from business and domestic customers about the level of charges. We had considerable sympathy for the Scottish Water staff who were fielded to respond, because they were answering for Scottish Water when what was causing the bills was not Scottish Water but the system within which the charges had been set. There was public confusion when it was explained how the bills—particularly things like standing charges—were set. People apportioned blame and were really puzzled that the advice that the water industry

commissioner had given to ministers was helping to arrive at the charging regime and that they were then expected to complain to the commissioner about bill charging. That gave rise to a lot of public confusion, so a system that produced a degree of independence and independent scrutiny would go a long way to building public confidence.

The Convener: I can see that coming with the next set of charge changes and from all the representations that we have received on cross-subsidy. Nobody likes to pay bills, and they certainly do not like paying others' bills; if they think that they are paying others' bills, they will be even less happy. The minister might as well anticipate that issue, rather than deal with its aftermath. We will log that for future discussion.

Alex Johnstone: What is the north west water customer consultation panel's experience on those issues?

Len Scoullar (North West Water Customer Consultation Panel): Ian Smith has his finger on the button. Like me, you come from a rural area, as you said earlier—no, it was Rob Gibson who said that. We found that, after the imposition of the charging regime had run its course, there was a more subtle degree of concern in the remote areas, primarily about the lack of investment by Scottish Water in the infrastructure for housing and industrial premises. The story that was given was that Scottish Water did not have the money and the developer should pay. However, in a small development in a village, the developer might be building only two or three houses and might not be able to find the funds in their selling price to provide sewerage and water. As we have travelled round the north-west, the point has constantly been made to us that more investment is needed or else people will leave.

The Convener: I have a couple of questions about the suggested new model of competition and the new framework for the water industry, whereby domestic customers will be dealt with by Scottish Water and industry will be dealt with differently. We have not covered those matters in depth, but you have some views on them and on the issue of prohibiting common carriage. You say that there is a need for

"clear and simple explanation by the Executive".

Are you, in that comment, hinting at concerns that you have and will you say a bit more about them?

Ian Smith: We are puzzled. The more evidence that we read from different people, the more confused we become, because there are many views. For example, there has been a challenge as to whether the Competition Act 1998 should apply—the Scottish Trades Union Congress evidence takes us down that road—and that challenge needs to be answered clearly so that people understand that fundamental point.

Our biggest concern on behalf of all customers is about the impact of introducing the regime. What will the real costs be and what will the effect of Scottish Water responding to the competition be? If we make the assumption that the competition will be for real and the bill will not introduce false competition, Scottish Water will have to try to respond to that and move resources and energies within the organisation to give that response, but what would happen if it put too much of its energy into the retail part of the business to retain it and be really competitive? What would that do to the wholesale business, and would taking resources away from the wholesale business eventually have a knock-on effect on the domestic customer?

We are asking those questions, but we do not think that there are concrete answers to them; they need further research and explanation, as do many other matters in the water industry. Issues have also been raised about exemptions and their effects, which need to be researched. There needs to be solid evidence, rather than people thinking that they have only half the story.

We said in our submission that we are concerned at the pace at which competition will be introduced. Scottish Water is starting to become stable, having gone through a period of instability. We are seeing greater continuity in staff resources, for example. We worry that, given the demands that will be made by rolling out Q and S III throughout the industry, bringing in competition and the rules quickly will give rise to strains for both the commission and the service delivery organisation. We need to be assured that customer service will not suffer as a result of that imposition.

The Convener: You have picked 2010 as an implementation date. Is that based on evidence?

Ian Smith: It is a bit of convenient neatness. That date would sit alongside the first break point in the Q and S III programme.

Len Scoullar: I am concerned that the customer might have to foot extra charges in order for the competition regime to be brought in as quickly as is planned. At the moment, Scottish Water is committed fully to Q and S III. It will need staff to determine how the competition regime should be introduced and to introduce it. If it is introduced as quickly as is planned, I am concerned that prices will have to rise as a result.

The Convener: We might have to ask the minister who will pay for the preparation for the potential competition process and whether Scottish Water will be expected to allocate the costs back to domestic or non-domestic customers.

You gave us fairly straightforward evidence in writing, so we do not have too many questions this morning. I am giving members a last chance to ask questions, but I am not forcing them to do so.

Mr Ruskell: I want to return to sustainable development, which your submission highlights. You describe the inconsistencies whereby Scottish Water has a statutory duty but the commission and the new-entrant companies will not. Given the fact that the commission will not be a policy-making body, how do you envisage that it would discharge duties in relation to sustainable development if they were included in the bill—which they are not?

Ian Smith: I do not think that I can improve on the answer that Trisha McAuley gave you. I like to think that the commission will be composed of economic experts and perhaps customer service experts with an understanding of the water industry who are guided in their activities by principles of sustainable development, which are about environmental and social justice, following the lead that the Executive gives them. John Sawkins said that we do not want to see the commission getting into the nuts and bolts of leakage and testing on that, but we want there to be guiding principles on sustainability. If sustainability is not just going to be sloganised, it has to be taken to heart by everybody in the industry.

Mr Ruskell: Do you see the monitoring of specific indicators as a role for the commission or is that too much nuts and bolts, in which case who would do it?

Ian Smith: It would be desirable if there were self-monitoring for Scottish Water. Scottish ministers should be accountable to Parliament for sustainability in that public corporation. There has to be a dimension of ministerial reporting. We are actively involved with Scottish Water. One of our panel members participates in the working group in Scottish Water on sustainability. We might have an opportunity to measure to ensure that Scottish Water is pursuing sustainable development objectives, in a kind of ride-on role. I do not think that sustainability is the primary thing for the commission or the customer panels, but it is important that it is consistently built into thinking. One cannot compel the new-entrant companies; one can just expect that they follow the principles in their operations.

The Convener: Someone needs to be in a position to set that as a clear framework, so that everyone is operating on the same level. We should not set higher standards for Scottish Water just because it is a public organisation and not apply the same principles to private companies.

Ian Smith: Absolutely.

The Convener: We need to find out whether the water industry commissioner is responsible for that matter and whether the requirement should be on the face of the bill. We have explored that issue with witnesses.

Ian Smith: I do not have an answer for the committee. The issue remains to be tested.

The Convener: That is a good point on which to end. Thank you for your advance preparation and for coming to speak to us today. Your evidence has been extremely useful.

I suspend the meeting briefly so that witnesses may swap over.

11:30

Meeting suspended.

11:36

On resuming—

The Convener: Our third set of witnesses has not yet arrived, so we will deal with the next two items on our agenda.

Subordinate Legislation

Plant Protection Products (Scotland) Amendment Regulations 2004 (SSI 2004/368)

Agricultural Subsidies (Appeals) (Scotland) Regulations 2004 (SSI 2004/381)

The Convener: Under agenda item 2, we have two instruments to consider under the negative procedure: the Plant Protection Products (Scotland) Amendment Regulations 2004 and the Agricultural Subsidies (Appeals) (Scotland) Regulations 2004. The Subordinate Legislation Committee has considered the instruments and has made no comment on either of them. The instruments are fairly straightforward. Are members happy to make no recommendation to the Parliament?

Members *indicated agreement.*

Budget Process 2005-06

11:38

The Convener: Agenda item 3 concerns the budget. A briefing paper has been circulated to members. We are moving into the budget process for 2005-06. The committee is invited to note the arrangements and timetable for this year's stage 2 consideration of the Executive budget and to consider the approach that it wishes to take. We are still awaiting the publication of both the spending review and the draft budget. That makes our job quite difficult, as we have an incredibly tight timescale within which to scrutinise those documents and to reach a view on them.

We have the background work that we did last year on the budget. The issues about which we were unhappy last year were not really resolved, although they were flagged up to ministers. I invite comments from members and ask them formally to agree to seek oral evidence from the minister. I am not sure how much time we will be able to spend on the process, given our tight timetable.

Members have all the background information that they need. I refer them to the options for stage 2 consideration and seek their views on those. It is suggested that our adviser, Professor Ken Thomson, be asked to give us an analysis of the spending review and draft budget documents, so that we can get into the process, and that we take an in-depth look at the documents as soon as possible after their publication. It is also suggested that we take oral evidence from the Minister for Environment and Rural Development, at either the end of October or the beginning of November, if we have the necessary information by then, and that we take things on from there.

Alex Johnstone: Do we have an indication of the reason for the delay in preparation of the documents? Does it involve any change from last year in the nature of the figures that are presented that will confuse us further?

The Convener: We do not know the reason for the delay. I would like all the comments from last year that are included in the paper to be kept as live comments. At the very least, we can try to track through them, but we are in the same situation as every committee—we have to work with the system.

Alex Johnstone: Given our experience last year, it is important that we ensure that our adviser, Ken Thomson, can consider closely the figures that are provided and draw comparisons with what happened last year. For a certain element of last year's figures, we did not have an appropriate base for comparison. The strength of the process that we are about to begin is the

consistency of having Ken Thomson again. We came to trust him and the way in which he dealt with the issues last year, so we must rely on him heavily this time.

The Convener: That is correct. It would be useful to revisit the parking of moneys in different budgets to see how those moneys were actually spent. You are right that on the issues that we picked up last year, we should take a fine-toothed comb approach. We will rely pretty heavily on Professor Thomson for that.

Nora Radcliffe: I have a general suggestion that might exert a bit of pressure. We have the pressure of a date by which we must report. Would it help to get information timeously from the Executive to say that we will report by a certain time after documents become available?

Mark Brough (Clerk): The dates are set by working back from the statutory dates for the Budget (Scotland) Bill in the early part of 2005. The Finance Committee is limited by those dates; it must report and initiate a parliamentary debate before the bill process begins in January.

Nora Radcliffe: There is no back-pressure on the Executive to provide its part of the jigsaw timeously.

The Convener: I suspect that that pressure might come not from the committee, but from members' discussions with various members of the Executive. Any pressure that could be applied would be intelligent and would assist the quality of our scrutiny and the robustness of the process.

Nora Radcliffe: Exactly.

The Convener: The clerks hope that we will slot in a meeting with the minister on 27 October or 3 November, which would let us consider a draft report on 10 or 17 November. That is a pretty sharp turnaround and requires Professor Ken Thomson to deliver for us in that timescale and members to get up to speed on the documents. As the clerk outlined, we have a timetable within which we must submit our comments to the Finance Committee. If that committee does not have our comments, it cannot consider them before it reports to the Executive.

Now that we have agreed on those recommendations, we have nearly run out of committee business, but I understand that one more panel of witnesses for the Water Services etc (Scotland) Bill is on its way. I suggest that we suspend the meeting until the witnesses arrive, which will provide an opportunity for members to network informally.

11:43

Meeting suspended.

11:49

On resuming—

Water Services etc (Scotland) Bill: Stage 1

The Convener: Our third panel of witnesses consists of three representatives from the Convention of Scottish Local Authorities. They are Councillor Alison Hay from Argyll and Bute Council, Councillor Alan Kenney from Fife Council and James Thomson, who is finance policy manager at COSLA.

We were keen to have the witnesses before us this morning because part 3 of the bill contains provisions for preventing and clearing up water discharges from abandoned mines. I am particularly pleased that Councillor Kenney is able to be with us this morning, as he represents a local authority with a coal mining interest. That is an element of the bill that we have not thus far explored with other witnesses, so we are keen to tackle it this morning.

As with the other witnesses who have come before us, we will not take opening statements from the witnesses, as we already have COSLA's written statement, for which we thank you.

We shall kick off with mining, because we have not dealt with it before. I know that Mark Ruskell is interested in the subject; he has a regional interest in it. After him, I shall invite questions from other members. Once we have explored mining, we shall move on to some of the wider policy issues that other witnesses have flagged up this morning.

Mr Ruskell: Do you believe that part 3 sets out clearly enough the powers of the Coal Authority? In what way do you believe the bill might change the relationship that exists between the Coal Authority and the Scottish Environment Protection Agency?

Councillor Alan Kenney (Convention of Scottish Local Authorities): Judging from practical experience in Fife—I am sure that local authorities in other parts of Scotland have had similar experiences—we seem to find ourselves in a grey area at present with regard to admission of liability. We have experienced that in practice in respect of ex-workings and the water table with instances of coal-mine water getting into water courses and affecting communities. It is difficult to ensure that we deal with such problems promptly. Until now, our experience has been that we have had to have considerable dialogue with the Coal Authority to get it to do the job with us without its admitting any liability. That is a concern for the future, but the Water Services etc (Scotland) Bill should give us an opportunity to address that.

Mr Ruskell: Do you believe that the responsibilities are clear enough in the bill?

Councillor Kenney: In many such cases, that is not found out until there is a legal challenge, is it?

Mr Ruskell: Is that a no?

Councillor Kenney: Or a maybe.

The Convener: You are right to say that it is not until an act is implemented that we know precisely what its impact will be. Given your experience, are there specific areas about which you have concerns?

Councillor Kenney: First, the Coal Authority does not have a base in Scotland—we deal with an authority that is based down in the midlands of England. When there is pollution from mines and the environment is affected, speed is of the essence, so we must ensure—whatever is done and whatever bill is passed—that we are not sidetracked by ifs, buts and maybes. We would like stronger wording in the bill to give clear guidance on how things will be handled and who will do what.

The Convener: I suppose that that could be in the bill itself or in guidance, but we can seek reassurances from the minister on that point when we probe further.

Mr Ruskell: I was reading through the Scottish Parliament information centre's briefing on some of the discussions on the issue that have taken place in England. There was some discussion about whether the provisions should be extended to other forms of mining, which I guess are more relevant to England than to Scotland. Do you have any opinions on that? Is coal mining the only issue in relation to which we should consider environmental liability for discharge of pollutants?

Councillor Kenney: I believe that the legislation should, as has been done in England, cover all types of mineral extraction because pollution can come from any current or past mineral extraction. Scotland has no deep mines left, so any deep-mine water pollution that we deal with is historic. However, we still do quite a lot of mineral extraction—whether it is from hard stone or sand. Those extractions have a common need for water, whether as part of the dust-abrasion process or because the machinery uses water. The contamination of water courses should certainly be considered.

Mr Ruskell: Do you have an example of where that has happened in Fife?

Councillor Kenney: We work closely with SEPA, which carries out good monitoring. We do that more so now because many of our communities self-monitor. They normally make the first contact with the local authority or SEPA to say

that something is wrong. It is not only coal mining that should be looked at, but all aspects of mineral extraction.

The Convener: That is clear and helpful to the committee. If no one else has questions about mining or coal, I open up questions to cover wider issues with which we have been dealing.

Maureen Macmillan: I have a great big enormous question that other people will probably want to ask. How do you see the balance between social and commercial needs in supplying water and the matter of cross-subsidy between businesses and domestic customers? You mentioned in your submission affordability and the difficulty that people have in paying their bills and the difficulty that local authorities have in collecting payment. Will you start by teasing out the issues that you flagged up in your submission? I am sure that other members will want to ask supplementary questions.

Councillor Alison Hay (Convention of Scottish Local Authorities): That is a big question.

Maureen Macmillan: Perhaps you could start by speaking about affordability and what needs to be done to make water more affordable to households that cannot afford it at the moment.

Councillor Hay: That would take into account whether to allow people who are on very low incomes to have water rebates. Is that the sort of thing you are looking for?

Maureen Macmillan: Yes.

Councillor Hay: At the moment, there is rates rebate for single persons, for example. COSLA's view is that that should continue and that we should ensure that people who are on any benefits also receive some sort of water rebate. We have to examine how that would be managed.

Maureen Macmillan: Is that a significant issue? Do you find that people in different local authority areas cannot afford to pay their water bills?

Councillor Hay: That is all tied in with the collection side. At the moment, we just take in a bulk collection and we pay a certain amount to Scottish Water based on what we collect in rates, but that system takes no account of whether people can afford to pay. We end up having to chase people for water rates that they cannot afford to pay if they are on benefits. It is an unfair system; we need one that is much clearer and more understandable.

Maureen Macmillan: I am trying to find out the scale of the problem that we know exists.

James Thomson (Convention of Scottish Local Authorities): We welcome the fact that affordability is the key focus; we can all hold to

that. As Councillor Hay said, some system of relief should be brought in for people who have income problems. Such problems should be recognised in the council tax relief system for people receiving full or partial relief.

The consultation document on billing and collection quoted a Scottish Water figure of £18 million, which is a transfer and revenue figure, but that is a result of the difficulties that people who receive either full or partial relief from council tax have in paying their water charges. Obviously, that relief and those rebates are offered to people because of their low income and the difficulties that they have in paying. If they have to pay the full water charge, that is a significant amount for a low-income family or in a low-income person's budget. That is why COSLA is seeking full relief and a rebate relief rather than a stirring of the pot, which will mean reapportioning discounts to target the needy, as the "Paying for Water Services 2006-2010" consultation paper suggests. If the underlying key is affordability, we should seek to target all people who struggle in those areas.

12:00

The Convener: I have a quick follow-up question in the light of the evidence that we received from the Scottish Consumer Council this morning. The Scottish Consumer Council came up with the idea that an indicator of water poverty would be a water charge that represents more than 3 per cent of a household's disposable income. What is COSLA's view on that? Has COSLA done any research on people's difficulties with paying water charges or on differential collection in respect of the council tax and water charges?

Councillor Hay: No, we have not investigated that side of things. On amounts and percentages, if people receive benefits, that is an indication that they are struggling and that the household's income is severely limited. Therefore, we should look with sympathy on whether such people should be expected to pay full water charges. I hope that the bill will address that problem.

Councillor Kenney: Many people in the country still do not define the difference between the water charge and the council tax; indeed, they still believe that the water authority is part of their local authority. In my experience, and going by the number of phone calls that are made when people have a water problem, people still contact the local authority rather than Scottish Water: people still have the mentality that whatever is on the billing is part of their council tax.

The Convener: I take it that you are not suggesting that the system should be changed so that there is separate billing.

Councillor Hay: No. We are simply suggesting that where the money is coming from and going to should be made clearer and more transparent.

Rob Gibson: In previous meetings we have considered development constraints. We would like to hear your views on them. It is clear that there is an important difference between a developer of a large private development and a developer of small social housing developments. I want to link the question to the fact that you want to see ministerial discretion being used a good deal more. If those two matters come together, perhaps you could expand on that theme.

Councillor Hay: Development constraints are a huge issue for all councils in Scotland and we will certainly expand on the matter in our later submission, which we are currently working on.

I do not think that there is a council in Scotland that is not experiencing stagnation or problems in relation to business development, housing development or any development—you name it. Under the next quality and standards III discussion, we should consider apportioning a certain amount of the money to new development. The topic is huge and is not confined only to the environment—it involves the minister who is responsible for housing and it involves all other ministerial remits—and we think that it should be dealt with and discussed at the highest level. If we do not reach a solution to apportioning some money under quality and standards III to development in Scotland, we will see stagnation. There will be a huge loss of income generation and stagnation in job increases.

One need only consider Glasgow and some of the bigger cities to see the potential problem. Glasgow needs about £200 million to fulfil its development potential—that is just one city. If the rest of Scotland is considered, it can be seen that the problem with development is massive. Obviously I do not expect the problem to be solved overnight, but we should address it to some extent in the immediate future.

Rob Gibson: Would you say something about ministerial discretion?

Councillor Hay: Ministerial discretion is mainly for disputes that might spring up among the proposed commission, Scottish Water and other bodies in consideration of charging regimes. If ministers give themselves powers of intervention, those powers should be used when a dispute arises.

Nora Radcliffe: Do you accept that in the Q and S II discussions, development constraint was insufficiently flagged up? Local authorities have now provided information about the scope for development and about the local and structural planning implications. Are you satisfied that robust

data on that have gone into the Q and S III discussion?

Councillor Hay: COSLA has robust data now and can make them available. We have striven to collect data from each local authority and I know that all local authorities will probably make submissions on Q and S III. We are collecting those data and will make a robust case.

We are discussing what is almost the number 1 problem of councils, whether urban or rural, although the problem differs between urban and rural scenarios. Developer input into larger projects might be wanted in an urban area, whereas in a rural area a project might involve just two or three houses in a small village—which will nevertheless be important to that village—and the developer will not make the same input, because that would make projects unaffordable.

James Thomson: Under Q and S II, local government wanted to tackle development constraints, but we were informed that that did not fall within its scope. When Q and S III was announced, we were told that it would allow development constraints to be addressed. As we were when Q and S II was issued, we are keen to come together. As Councillor Hay said, individual councils will submit robust examples and data. COSLA will also produce a joined-up national submission.

The Convener: That is important and it is one reason why we are asking our questions. We are conscious that implementation of the bill will depend critically on what happens with quality and standards III and the challenge of “Investing in Water Services 2006-2014”. We are trying to join up that scrutiny, if not the answers. We will certainly pose many questions to the minister when he appears before us in a couple of weeks, so your views are important to us.

Councillor Kenney: I saw nothing in the committee’s papers about an example of SUDS in Fife.

The Convener: SUDS stands for sustainable urban drainage systems.

Councillor Kenney: SUDS is favoured for the future. In Fife, we are working with a development of 6,000 new houses in which the problem is the question of where future liability will lie. I hope that the bill will cover that. The private sector has developed and built the SUDS in conjunction with the local authority, but the difficulty is with Scottish Water taking responsibility for the system’s future care and maintenance, because the system is above ground. Scottish Water says that sustainable drainage becomes its liability after it goes into pipework and below ground. If we are looking for future developments—SUDS looks to be a positive way forward—we should also

consider care and maintenance and the impact of potential flooding in communities if such developments are not maintained.

The Convener: I thank you for that practical point, which we will put to the minister.

Maureen Macmillan: We all agree that a way is needed of creating new infrastructure for affordable housing. Do you have any thoughts on where the money for that should come from? It could come from other water users, but should it come from Communities Scotland? Do you care where it comes from, if all that you want is the money?

Councillor Hay: There has been some discussion—and recently, some movement—in relation to charging for second homes, which will bring extra money to Scottish Water. It has been suggested that that extra money could be used to fund the infrastructure that is needed for the new affordable housing. It would be useful if we could marry the extra money that is given to the registered social landlords with the extra income that Scottish Water will receive as a result of charging for second homes. We think that that would make a nice, round package. It will not solve the whole problem, but it would be a start.

Maureen Macmillan: How far would that go?

Councillor Hay: We have not done any detailed work on the issue. We were discussing it in relation to a submission that we have yet to make.

Maureen Macmillan: We heard from the SCVO about the problems that voluntary organisations are facing. Does COSLA have any experience of voluntary organisations being in difficulties because of the hoops that they have had to jump through to access support?

Councillor Kenney: I sit on the board of the Scottish Association of Local Sports Councils. For a number of months, we have had a great deal of discussion with voluntary sporting groups who have identified the fact that their bills have increased considerably due to water charging—some groups’ bills have gone up by 700 per cent. That has had a great impact on the voluntary sector. I know that the minister was considering that carefully. Our submission to the Executive should focus on how we can avoid disadvantaging communities by over-charging voluntary groups for their water.

Nora Radcliffe: The corollary of that is the question of who should pay for that support. Should it be the water charge payer or the general taxpayer?

Councillor Kenney: That is a good political question.

Maureen Macmillan: COSLA is not taking a collective view on that, I take it.

Councillor Hay: No.

Nora Radcliffe: Previously, consumer panels have suggested to us that their role and remit should be strengthened and extended. I do not expect you to answer a question on that today, because it has come out of left field, but I suggest that it might be possible to expand their remit to include all water users, including private users, which come under the aegis of local authorities rather than Scottish Water. Would it be possible for you to give us a response to that idea in the next few weeks?

Councillor Hay: Yes.

The Convener: There would be a deadline of two weeks for that response if we are to incorporate it in our report. That would be helpful.

I wanted to talk about the principles of the bill. You have said that you would be keen to get further information and assurances on the licensing system, which would limit retail competition to non-domestic supply only. What kind of reassurances are you seeking?

Councillor Hay: COSLA is not happy about competition being extended to the domestic sector, which we think should be safeguarded in the interests of quality, sustainability and safety.

Alex Johnstone: That is common carriage.

Councillor Hay: Sorry?

The Convener: I will let you ask a question once Councillor Hay has finished answering my question, Alex.

Councillor Hay: Having various companies supplying water to domestic users, in the way that we have various companies supplying electricity and so on, would cause concern among the public, although I can see some benefit in the retail sector. I have read through the bill, however, and I think that the proposed licensing goes some way towards safeguarding some of the issues that are being raised with us by the non-private sector.

12:15

James Thomson: By referring to limiting retail competition and phasing it in slowly, the bill recognises what COSLA is trying to say. We need to take a cautious approach, and to analyse how effective competition can be, as well as the implications and limitations of such a system. We are seeking further reassurance and more information. As the bill seeks to introduce limited competition, we should learn from and assess that. It is not about opening up the doors, but reviewing how the system proceeds and, if

necessary, being able to stop the process if it is adverse to what we want.

The Convener: What assurances are you after? Are you worried about the impact of retail competition in the non-domestic sector on domestic consumers? Do you want more information about how the system will work and the impact on local authorities and non-domestic customers? I am trying to tease out what that paragraph in your submission means. I take the point that you agree with the principle that the domestic customer market should not be opened up for retail competition. I am just trying to get a sense of your concerns about the limiting of retail competition.

Councillor Hay: We are advocating a cautious approach. We are not saying that the market should be opened up completely and immediately with no one watching what is happening. If we start allowing companies other than Scottish Water to come in and sell water, we must be sure that we are safeguarding the infrastructure and that there is provision for upgrade, should that be necessary. Those safeguards should be wrapped up in such proposals.

James Thomson: You were talking about the impact on local authorities. As with all areas, we would hope that the commissioner would consult COSLA and local government on the impact that the system will have so that we can be aware of that, and advise or offer experience.

Alex Johnstone: Most objections to the idea of retail competition in the domestic sector seem to relate more to common carriage, which is a different argument and we might have different views on that. The main argument that has been made against retail competition in the domestic sector is that current pricing in the domestic sector is designed to facilitate massive cross-subsidy within that sector. That takes us back to the question that one of your colleagues resisted answering a few minutes ago. Who should be paying for those who cannot afford to pay water charges? Should it be other water charge payers or should it be a broader, social security issue?

Councillor Hay: I will stick my head above the parapet. We should be helping those who are less well off. I would want a cross-subsidy to continue. Where we can cost-effectively raise finance in a more compact region, and get surplus money, that money should be used to help those in regions where we cannot raise money and the service costs more. It makes sense to view the domestic sector as a Scotland-wide set up. We should be making sure that everyone gets their water as cheaply, cleanly and sustainably as possible. If that means that certain regions have to subsidise others, that is only right and proper. For example, we want to take care of the least well-off in our

communities, so those who are well off and are able to contribute more should do so. That is how society should work.

Alex Johnstone: Is there not an argument that it would be more appropriate to go down a road where water customers paid for the services that they got and we eliminated cross-subsidy? You expressed a desire to ensure that the less well-off and those who need assistance are provided with that assistance. Should that not be handled in conjunction with, say, housing benefit rather than as a cross-subsidy within the water charges system?

Councillor Hay: It could be a bit of both. I do not think that there is an easy solution. We should charge domestic customers as little as possible; we should ensure that those who can afford to, do pay; and we should ensure that those who are having difficulty because they have limited incomes and limited ability to raise income are helped by others. It is your decision whether that is done through a cross-subsidy on the water side or through benefits.

The Convener: It will be the minister's decision, but we are taking evidence on the subject.

Councillor Hay: I meant the politicians' decision.

The Convener: On a related point, I presume that COSLA supports the geographical subsidies that are in place and the fact that there is one charge regardless of where people live.

Councillor Hay: Yes, we do.

The Convener: Do colleagues have any other questions?

Mr Ruskell: I would like to go back to water poverty. We have been talking about people on benefits, but people who are in waged poverty—on low incomes but not in the benefits system—will perhaps fall within the water poverty threshold. How do we ensure that those people are captured within that net? The current focus seems to be on rebates through the benefits system. What about people in waged poverty?

Councillor Hay: I suppose that the question is where we draw the line. If people are slightly over or under the line, they tend to get squeezed. It is difficult to know how to deal with that. I do not have an easy answer.

Mr Ruskell: The suggestion was made earlier of 3 per cent of household income being a good indicator of the sustainable affordability of water.

Councillor Hay: Not having thought about that, I do not feel qualified to make any comment on that at the moment.

Mr Ruskell: It would be useful to know COSLA's position on that. Other organisations are responding to us on it.

Councillor Hay: Can we get back to you on that, having given it some thought?

Mr Ruskell: Yes. That would be great.

Councillor Hay: We will give you that answer in writing, along with the answer to the other question, in two weeks' time.

Mr Ruskell: Thanks.

The Convener: No one else is queuing up with a question. Thank you for coming along and giving evidence today.

We have dealt with all our other agenda items, which we rolled forward to fill the gap earlier. Our next meeting will be on Wednesday at 9.30 am. We will discuss a motion for the annulment of a statutory instrument on the restriction of the use of lead shot. The Deputy Minister for Environment and Rural Development will be with us for that discussion at the beginning of the meeting. I thank colleagues and witnesses for their attendance this morning.

Meeting closed at 12:23.

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